REMARKS/ARGUMENTS

This application has been carefully considered in light of the non-final office action mailed April 20, 2007. Responsively, claims 1-16 have been amended, claim 17 canceled without prejudice and new claims 9-11 added. No new matter has been added.

In the office action the Examiner has rejected claims 1-13 and 17 under 35 U.S.C. 102(b) as being directly anticipated by the teachings of the reference to US Patent 5,297,589 to Baumann. Claims 14-16 have been rejected under 35 U.S.C. 103(a) as being obvious and therefore unpatentable over the teachings of Baumann when further considered in view of the teachings of the reference to Fazes, US Patent 5,477,889.

The Examiner had objected to the language of the Abstract and, in this respect, the Abstract has been amended to remove the legal phraseology.

The reference to Baumann has been considered but is not believed to teach the inventive features of the present invention as set forth in the claims nor make such inventive features obvious. Rather, the structure disclosed in the reference is

like that described with respect to the prior art at pages 1 and 2 of the translation of the present application as filed. More specifically, in Baumann, the opposing side walls 9 and 10 of the cross member are formed of thin material and therefore must be reinforced. To provide for such reinforcement the insert 11 is formed by welding spaced blocks 12 and 13 between spaced reinforcing plates 14 and 15. The insert is thereafter inserted laterally into an open end of the cross member into the spaced between the walls 9 and 10 and the reinforcing plates 14 and 15 are thereafter welded to the walls 9 and 10. As noted in the prior art discussion set forth above, the reinforcing plates, when added with the walls 9 and 10, increase the weight of the cross member which is a drawback to such a reinforced structure. It should be noted that there is no corresponding seating of a tubular member, such as applicants', that is seated with a recess or housing 12 that is indented with respect to the side or front wall 6_2 of the cross member, as is taught in the present invention.

Thus, with the structure of the present invention there is no welding of the tubular fixing element 14 to facing thin outer walls of the cross member as the tubular fixing element functions as the outer walls of the cross member at the area of the indentation or housing 12. Also, the cross member of the

structure of the present invention is not subject to any stress due to retention of the stud on the post, see page 9 beginning at line 28 of the application. Further, in the preferred embodiments, the width "E" between the opposite walls 14_{21} of the tubular fixing element 12 is greater than a width "e" of the cross member 6. No such relationship exists in the cited reference to Baumann wherein the insert 11 is smaller in cross section than the cross member so that the insert may be fitted into the cross member by being moved laterally into the side opening between the side walls 9 and 10 of the cross member. Therefore, with the structures of the present invention the tubular fixing element may be inserted within the indentation or housing 12 from a face 6_2 of the cross member and less additional weight is created by a direct abutting reinforcement of the walls of the cross member than is created in the reference to Baumann.

In view of the foregoing, not only is the structure of the tubular fixing element different than that of the prior art, the combined structure of the fixing element and the cross member of the heald frame is also different. Further, the reference to Baumann actually teaches away from any equivalency in structure and purpose between the reinforcing insert 11 and cross member of disclosed therein and the tubular fixing element 14 and the cross member 6 of the present invention as the insert 11 of the

reference is specifically structured to include the reinforcing walls 14 and 15 that are purposefully welded to the facing walls 9 and 10 of the cross member. Thus, there is no suggestion of providing a structure wherein the facing portion of the side walls is not even present due to the provision of the indentation or housing 12 of the present invention.

In view of the foregoing, even if one were to combine the teachings of the secondary reference to Faase et al with the structure of Baumann, the resultant structure would not teach the inventive differences as set forth above. However, even that being the case, Fasse et al has been cited as teaching a resilient plate 32 that cooperates with a notched member 34. However, plate 32 is actually a clamp block that is operable to be raised by the screw 24 so that the notch 34 therein will abut the lower sloped surface of the insert 18 of the endbrace 14 of the frame. There is no suggestion that the plate 32 is resilient so as to automatically seat within a notch of the endbrace. Actually, if the clamp block 32 is raised to a position to engage the surface 34 of the block with the lower portion 38 of the insert 18, the clamp block would block the insertion of the insert as the leading and larger surface of the insert could not be moved past the leading and outer edge of the clamp block.

With applicants' invention, the resilient member 16 automatically snap fits into a groove 4_4 provided on the protrusion 4_1 of the post 4. This mating of the element 16 and the protrusion 4_1 assures the proper seating and alignment of the post relative to the tubular fixing member 14 and the cross member 6 prior to the protrusion being secured in place by adhesion and/or by actuation of the bolt or screw 18. Thus, not only is the structure of the Faase et al reference different than that of the present invention, but the functioning and purposes of the structures are not the same.

In order to anticipate a claimed invention for obviousness over a combination of references, the references relied upon must teach each of the elements of the claimed invention or equivalent structures with respect thereto and must also suggest the combination or the references must suggest that it would be obvious to try a modification of the references to anticipate the particulars of the present invention as claimed. As it is believed claim 1 is not anticipated by the reference to Baumann, it is respectfully submitted that the combination suggested by the Examiner can not make obvious claims 14-16 as even if one of ordinary skill in the art used the teachings of Faase et al to modify the structure of Baumann, the resultant structure could not and would not suggest applicants' invention as described and

claimed in the present application.

In view of the foregoing, reconsideration of the rejections under 35 U.S.C. 102(b) and 103(a) is respectfully requested and favorable consideration and allowance of claims 1-16, 18 and 19 is solicited. Should the Examiner have any questions regarding this response or the allowability of the claims, it would be appreciated that the Examiner contact the undersigned attorney to further expedite the further prosecution of this application and to schedule a personal interview before taking any action that may be considered as final.

Respectfully Submitted,

Dowell & Dowell, P.C.
Ralph A. Dowell, Reg. No. 26,868

June 4, 2007
Dowell & Dowell, P.C.
Suite 406
2111 Eisenhower Avenue
Alexandria, VA 22314
Tele: 703-415-2555
e-mail: dowell@dowellpc.com